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**MAR 03 2006**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicants:	Georges E. Blin et al.	Examiner:	Ankur Gogia
Serial No.:	10/623,946	Group Art Unit:	2187
Filed:	July 21, 2003	Docket:	G&C 30566.306-US-01
Title:	DATA PROCESSING APPARATUS AND METHOD FOR DETERMINING THE AMOUNT OF FREE STORAGE SPACE IN SUCH AN APPARATUS		

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**DECLARATION OF STEVEN GUTTMAN UNDER 37 C.F.R. § 1.132**

I, STEVEN GUTTMAN, declare as follows:

1. I am a Patent Agent, Reg. No. 55,234, am an employee of the Assignee of the above-identified application, and am authorized by the Assignee to make this declaration. I have conducted an investigation and communicated with appropriate personnel employed by the Assignee of the present invention. Based on this investigation, I attest to the responses set forth herein:

2. "Did applicants sell or offer for sale a product that embodies the invention claimed in the instant application?"

Based on my investigation, I determined that Assignee sold or offered for sale the product Stone® Disk Arrays v.2 that embodied the invention claimed in the instant application. Such a sale or offer for sale was not more than one year before the effective filing date of the instant application.

3. "Was there a definite sale, or offer to sell, more than one year before the effective filing date of the instant application?"

Based on my investigation, I am not aware of any definite sale, or offer to sell, more than one year before the effective filing date of the instant application.

4. "In response to this requirement, please provide copies of each publication which any of the applicants authored or co-authored and which describe the disclosed subject matter of claims 1-44."

Based on my investigation, I conclude that Employees of the Assignee authored the white paper entitled "stone disk arrays" that was released in July 2001. However, this white paper does not describe the disclosed subject matter of claims 1-44.

Further, based on my investigation, I have no knowledge of any other publication, being published prior to one year before the filing date of the above-identified patent application that

describes the disclosed subject matter of claims 1-44.

5. "In response to this requirement, please provide the title, citation and copy of each publication that is a source used for the description of the prior art in the disclosure."

Based on my investigation, U.S. Patent No. 6,118,931 was used as a source for the description of the prior art in the disclosure.

6. "In response to this requirement, please provide the names of any products or services that have incorporated the claimed subject matter."

Based on my investigation, I conclude that the products and/or services offered by the Assignee that have incorporated the claimed subject matter are entitled "stone® disk arrays" version 2 and later. In addition, the "wire®" product is a network-independent clip browser and transfer subsystem, built on top of the stone® file system that is used within the stone® disk arrays product. However, I am not aware of any product (including those indicated above) that was used or on sale more than one year before the effective filing date of the above-identified parent application.

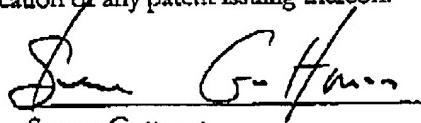
7. "In response to this requirement, please provide the names of any products or services that have incorporated the disclosed prior art, specifically the stone® disk array, Discreet file system and stone® file system."

I note that neither 37 C.F.R. §1.105 nor the MPEP require that Assignees or Applicants provide names of products that incorporate the disclosed prior art. Accordingly, Assignees traverse such a request for information. In this regard, I note that many products may incorporate the prior art whether offered by the Assignee or a third party.

Nonetheless, in the interest of expediting prosecution and based upon my investigation, I conclude that the stone® disk array and wire® products incorporated aspects of the disclosed prior art. However, I am not aware of any products either offered by the Assignee or a third party more than one year prior to the effective filing date of the application that incorporates the claimed subject matter of the invention.

8. I further declare that all statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date: March 2, 2006

  
Steven Guttmann